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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,245	06/23/2003	Len Chan	OIC0052US	1154

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EXAMINER	
FISHER, PAUL R	

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3689	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)
	10/602,245	CHAN ET AL.
	Examiner	**Art Unit**
	PAUL R. FISHER	3689

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 January 2012 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): None.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1,3,6-9,11,14-17,19,22-27 and 33*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Dennis Ruhl/
Primary Examiner, Art Unit 3689

Continuation of 3. NOTE: Applicant has amended the independent claims to include at least "using the processor", in claims 1 and 33, "the plurality of function spaces are individual hotels of a hotel chain, the set of pricing rules comprises at least one generic pricing rule, and at least one property-specific pricing rule, and the at least one property-specific pricing rule is specific to one of the plurality of properties", in claims 3, 11 and 19. The amendment requires the Examiner to reconsider the prior art in light of the new limitation and/or to perform a new search. Also, amendments must be considered as to any new matter issues. As such the amendment has not been entered.

Continuation of 11. does NOT place the application in condition for allowance because: In response to the applicant's arguments regarding the 101 rejections, the newly recited claim amendments even if entered would not overcome 101 due to the fact that the utilization of a processor is not positively recited. That is to say currently the claims reciting "using the processor" and do not in fact claim the processor performing the tasks. Therefore the processor can be considered to be merely a tool and a person is still performing the task, utilizing the processor merely to send and receive the data after the step is perform, which is an insignificant extra solution step and as such is not sufficient to overcome the 101 rejection. As such even if the amendment were entered the 101 rejection would be maintained.

In response to the applicant's argument that "Bingham, Couch, Fiske, Smith and Walker, alone or in combination, fail to show, teach or even suggest defining a category, wherein the category comprises a subset of a plurality of function spaces, the subset of function spaces comprises the function space, and each function space of the subset of function spaces has one or more similar attributes. The Office Action relies on the cites sections of Couch to disclose these elements of claim 1. Id. at pp. 9-10. However, the cited sections of Couch fail to show, teach, or even suggest such limitations. Instead, the cited sections of Couch provide for a self-service terminal that allows a guest to check-in to a lodging facility, where the check-in process results in the terminal issuing a key for a room of a type the guest has previously reserved. See Couch, 5:39:55. As will be appreciated, an act of issuing a key to a guest based on a type of reserved room does not teach or suggest an act of defining a category of function spaces, as in the claimed invention. In addition, even if Couch's disclosure of room types could somehow be successfully equated to a category of function spaces (a point Applicants do not concede), the cited sections of Couch would still fail to teach or suggest the act of defining a category of function spaces, This is because the cited sections of Couch simply provide for using room types to assign a key to a guest, and in no way show, teach, or suggest a process by which such rooms might be defined into different room types. Thus, the cited sections of Couch fail to show, teach, or even suggest defining a category, as in the claimed invention," The Examiner respectfully disagrees. As stated in the rejection Col. 5, lines 39-55; teaches that it is known to map a room type or category space to a specific function space. For example the room type is the category which is previously defined by the system. This definition has to exist because as stated in Couch the user has already reserved a room, using this definition. The user is also asked if they would like to upgrade or change the reservation, thus changing from one defined category to another. This is defined by rooms having a similar type thus, the reservation is for a particular type of room but not for a specific room itself. Thus the rooms are grouped by type of room and then specific rooms are issued as the guest checks in. The passage recited shows the process where a defined category is then used to issue a specific space to a user based on their defined category in their reservation. Thus Couch does more than merely issue a key it must first have defined all of the rooms to specific categories or types before it can even take the reservation. Since the user is issued a room based on the reservation type or category the category must first have to be defined and exist in the system. As such the references when combined read over the claims as currently written and the rejections have been maintained.

In response to the applicant's argument that "the cited sections of Bingham, Couch, Fiske, Smith, and Walker, alone or in combination, fail to show, teach or even suggest automatically providing a real-time price quote for a function space based on the set of pricing rules and a threshold revenue value assigned to a function space. The Office Action characterizes the cited sections of Bingham as disclosing a real-time quote for a function space based on a set of pricing rules, and further posits that the cited sections of Walker somehow teach a real-time quote for a function space based on a threshold revenue value assigned to a function space. See Office Action, pp. 5-16. However, the cited sections of Walker fail to show, teach, or even suggest providing a real-time quote for a function space based on a threshold value assigned to a function space. The cited sections of Walker simply provide for accepting offers from a customer for upgraded services and evaluating such offers according to seller-defined criteria and/or offer acceptance rules. See Walker, Abstract. As such, the cited sections of Walker do not provide for automatically providing a real-time quote to a customer based on a threshold value for a function space, but instead provide for having a customer provide an offer for upgraded services to a seller," the Examiner respectfully disagrees. As stated in the rejection Walker was used to teach it is known to assign a threshold revenue value for the each of the plurality of function spaces, wherein each of the threshold revenue values identifies a minimum amount of revenue required to allow use of the function space, and providing a price quote for the function space based the threshold revenue value assigned to the function space. That is to say it is known when providing pricing to also take into account a minimum amount of revenue which is required to allow the use of an asset, and providing a price for that asset based on the threshold. As shown in Walker Col. 3, lines 48-59, Col. 3, line 65 through Col. 4, line 14 and Col. 6, lines 18-41 and Col. 6, line 58 through Col. 7, line 20; teaches that it is known for a seller to assign a threshold or minimum amount of revenue they will accept for a reservation, and that it is known to reject offers which do not meet this minimum requirement. Therefore, when combined with the pricing of Bingham, it would have been obvious to give the pricing quote based on both the pricing rules and a minimum value, therefore if the pricing rules allow for a price under the minimum value the offer is still rejected as taught in Walker. This would assure the seller that they are getting at least the minimum price they have set up for a reservation. As acknowledge by the applicant this is a combination, where Bingham discloses the real-time price quote based on pricing rules, Walker was used to teach that it is known for a seller to identify a minimum amount they are willing to accept and to use that in determining the final price. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See In re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); In re Merck & Co., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Here the combination together shows that it would have been obvious to automatically providing a real-time quote to a customer based on a threshold value for a function space, as such the combination reads over the claims as currently written, and the rejection has been maintained.

In response to the applicant's argument that , "the offers in Walker originate from a customer, and not from a seller, and thus any offers provided to a seller are not based on a threshold value for a function space. This is because a threshold value (e.g., a minimum amount of

revenue acceptable for an upgraded seat) is (and, logically, must be) defined by the seller, as part of an offer acceptance rule, and thus unknown to a customer placing an offer. See Walker, 6:18-41. Hence, the cited sections of Walker fail to show, teach, or even suggest providing a real-time quote for a function space based on a threshold value assigned to a function space," the Examiner respectfully disagrees. As stated above Walker is used to teach that it is known for a seller to identify a minimum amount they are willing to accept and to use that in determining the final price. Thus while the offers are based off what the buyer is offering the final price is still based off the threshold the seller has set. In other words the final price quote will be based off at minimum the threshold the seller has set for the asset, since it cannot go below that value. Thus when combined as in the rejection the automatic real-time price quote would be based on pricing rules but in view of walker will not go below a minimum value the seller has set up beforehand. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See In re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); In re Merck & Co., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Here the combination together shows that it would have been obvious to automatically providing a real-time quote to a customer based on a threshold value for a function space, as such the combination reads over the claims as currently written, and the rejection has been maintained.

In response to the applicant's argument that, "Walker's disclosure is limited to services with assigned seating (e.g., airline seating, car washing, dry cleaning, theatre seating, stadium seating, and so on). See Walker. 4:50-64. By contrast, the Bingham, Couch, Fiske, and Smith disclosures are directed toward securing reservations with lodging facilities (e.g., hotels). Securing a reservation for a hotel room does not involve or benefit from assigned seating, as disclosed in Walker. As such, the combination of Bingham, Couch, Fiske, and Smith with Walker would not have been obvious to one or ordinary skill in the art," the Examiner respectfully disagrees. All of the references deal with reservations, reserving an asset for use at a later date, and the pricing of that asset. Further Smith also talks about reservation of flight inventory. In response to applicant's argument that there is no teaching, suggestion, or motivation to combine the references, the examiner recognizes that obviousness may be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988), In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992), and KSR International Co. v. Teleflex, Inc., 550 U.S. 398, 82 USPQ2d 1385 (2007). In this case, all of the references deal directly with the reservation of assets and the pricing and distribution of those assets. As such it would have been obvious to one ordinary skill to look into how other assets are reserved and how the pricing is established to better renting their own assets. Further still, assigned seating, is merely assigning the seat as an asset, in hotels the rooms or function spaces are the assets and are also assigned to guests, meaning when you rent a room it is then assigned to you for that period of time much as is an airline seat. Thus the manner in which those assets are managed and disbursed would also be relevant in hotels. Therefore, the combination is in fact proper, and when combined as shown in the rejection the references read over the claims as currently written, as such the rejections have been maintained.

In response to the applicant's request for reconsideration, the application is arguing the newly recited limitations. Specifically the limitations pertaining to claims 3, 11 and 19. Since the amendment will not be entered, as the new limitations require further search and consideration as explained above, the arguments are drawn to limitations which are not going to be entered in the case at this time. Therefore the arguments are moot.

All rejections made towards the dependent claims are maintained due to the lack of a reply by the applicant in regards to distinctly and specifically point out the supposed errors in the Examiner's action in the prior Office Action (37 CFR 1.111). The Examiner asserts that the applicant only argues that the dependent claims should be allowable because the independent claims are unobvious and patentable over Bingham in view of Couch, further in view of Fiske,further in view of Smith, and, where appropriate, in further view of Walker.